



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2012 REGULAR SESSION

HOUSE BILL NO. 300

AS ENACTED

THURSDAY, MARCH 29, 2012

RECEIVED AND FILED

DATE April 11, 2013
2:39 p.m.

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Mary Sue Adams

1 AN ACT relating to retirement and declaring an emergency.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 11A.010 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) "Business" means any corporation, limited liability corporation, partnership, limited
6 liability partnership, sole proprietorship, firm, enterprise, franchise, association,
7 organization, self-employed individual, holding company, joint stock company,
8 receivership, trust, or any legal entity through which business is conducted for
9 profit;
- 10 (2) "Commission" means the Executive Branch Ethics Commission;
- 11 (3) "Compensation" means any money, thing of value, or economic benefit conferred
12 on, or received by, any person in return for services rendered, or to be rendered, by
13 himself or another;
- 14 (4) "Family" means spouse and children, as well as a person who is related to a public
15 servant as any of the following, whether by blood or adoption: parent, brother,
16 sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-
17 in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter,
18 stepbrother, stepsister, half brother, half sister;
- 19 (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or
20 anything of value, unless consideration of equal or greater value is received; "gift"
21 does not include gifts from family members, campaign contributions, or door prizes
22 available to the public;
- 23 (6) "Income" means any money or thing of value received or to be received as a claim
24 on future ~~services~~, whether in the form of a fee, salary, expense allowance,
25 forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other
26 form of compensation or any combination thereof;
- 27 (7) "Officer" means all major management personnel in the executive branch of state

government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Kentucky Teachers' Retirement System board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

- (a) The Governor;
- (b) The Lieutenant Governor;
- (c) The Secretary of State;
- (d) The Attorney General;
- (e) The Treasurer;
- (f) The Commissioner of Agriculture;
- (g) The Auditor of Public Accounts; and
- (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed,

- 1 unless his agency is attached to the appointing authority's agency for administrative
2 purposes only, or unless the agency's characteristics are of a separate independent
3 nature distinct from the appointing authority and it is considered an agency on its
4 own, such as an independent department;
- 5 (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS
6 6.611(22) or any person employed as an executive agency lobbyist as defined in
7 KRS 11A.201(8);
- 8 (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes,
9 opposes, or acts;
- 10 (13) "Candidate" means those persons who have officially filed candidacy papers or who
11 have been nominated by their political party pursuant to KRS 118.105, 118.115,
12 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of
13 this section;
- 14 (14) "Does business with" or "doing business with" means contracting, entering into an
15 agreement, leasing, or otherwise exchanging services or goods with a state agency
16 in return for payment by the state, including accepting a grant, but not including
17 accepting a state entitlement fund disbursement;
- 18 (15) "Public agency" means any governmental entity;
- 19 (16) "Appointing authority" means the agency head or any person whom he has
20 authorized by law to act on behalf of the agency with respect to employee
21 appointments;
- 22 (17) "Represent" means to attend an agency proceeding, write a letter, or communicate
23 with an employee of an agency on behalf of someone else;
- 24 (18) "Directly involved" means to work on personally or to supervise someone who
25 works on personally; and
- 26 (19) "Sporting event" means any professional or amateur sport, athletic game, contest,
27 event, or race involving machines, persons, or animals, for which admission tickets

1 are offered for sale and that is viewed by the public.

2 ➔Section 2. KRS 11A.201 is amended to read as follows:

3 As used in KRS 11A.201 to 11A.246 and KRS 11A.990:

4 (1) "Compensation" means any money, thing of value, or economic benefit conferred
5 on, or received by, any person in return for services rendered, or to be rendered, by
6 himself or another;

7 (2) (a) "Expenditure" means any of the following that is made to, or for the benefit of
8 an elected executive official, the secretary of a cabinet listed in KRS 12.250,
9 an executive agency official, or a member of the staff of any of the officials
10 listed in this paragraph:

- 11 1. A payment, distribution, loan, advance, deposit, reimbursement, or gift
12 of money, real estate, or anything of value, including, but not limited to,
13 food and beverages, entertainment, lodging, transportation, or honoraria;
- 14 2. A contract, promise, or agreement to make an expenditure; or
- 15 3. The purchase, sale, or gift of services or any other thing of value.

16 (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or
17 other charitable organization that is exempt from federal income taxation
18 under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not
19 include the purchase, sale, or gift of services or any other thing of value that is
20 available to the general public on the same terms as it is available to the
21 persons listed in this subsection. "Expenditure" does not include a payment,
22 contribution, gift, purchase, or any other thing of value that is made to or on
23 behalf of any elected executive official, the secretary of a cabinet listed in
24 KRS 12.250, an executive agency official, or any member of the staff of any
25 of the officials listed in this paragraph who works for a state agency for which
26 the executive agency lobbyist is not registered to influence;

27 (3) "Employer" means any person who engages an executive agency lobbyist;

1 (4) "Engage" means to make any arrangement, and "engagement" means arrangement,
 2 whereby an individual is employed or retained for compensation to act for or on
 3 behalf of an employer to influence executive agency decisions or to conduct any
 4 executive agency lobbying activity;

5 (5) (a) "Financial transaction" means a transaction or activity that is conducted or
 6 undertaken for profit and arises from the joint ownership, or the ownership, or
 7 part ownership in common of any real or personal property or any commercial
 8 or business enterprise of whatever form or nature between the following:

- 9 1. An executive agency lobbyist, his employer, a real party in interest, or a
 10 member of the immediate family of the executive agency lobbyist, his
 11 employer, or a real party in interest; and
- 12 2. Any elected executive official, the secretary of a cabinet listed in KRS
 13 12.250, an executive agency official, or any member of the staff of any
 14 of the officials listed in this subparagraph.

15 (b) "Financial transaction" does not include any transaction or activity described
 16 in paragraph (a) of this subsection if it is available to the general public on the
 17 same terms;

18 (6) "Executive agency" means the office of an elected executive official, a cabinet listed
 19 in KRS 12.250, or any other state agency, department, board, or commission
 20 controlled or directed by an elected executive official or otherwise subject to his
 21 authority. "Executive agency" does not include any court or the General Assembly;

22 (7) "Executive agency decision" means a decision of an executive agency regarding the
 23 expenditure of funds of the state or of an executive agency with respect to the award
 24 of a contract, grant, lease, or other financial arrangement under which those funds
 25 are distributed or allocated;

26 (8) (a) "Executive agency lobbyist" means any person engaged to influence executive
 27 agency decisions or to conduct executive agency lobbying activity as one (1)

of his main purposes on a substantial basis. The term "Executive agency lobbyist" shall also include placement agents and unregulated placement agents.

(b) "Executive agency lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, state college, state university, or political subdivision who attempts to influence or affect executive agency decisions in his fiduciary capacity as a representative of his agency, college, university, or political subdivision;

(9) (a) "Executive agency lobbying activity" means contacts made to promote, oppose, or otherwise influence the outcome of an executive agency decision by direct communication with an elected executive official, the secretary of any cabinet listed in KRS 12.250, any executive agency official, or a member of the staff of any one of the officials listed in this paragraph.

(b) "Executive agency lobbying activity" does not include any of the following:

1. The action of any person having a direct interest in executive agency decisions, if the person acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any person listed in paragraph (a) of this subsection for the redress of grievances or other proper purposes;
2. Contacts made for the sole purpose of gathering information contained in a public record; or
3. Appearances before public meetings of executive agencies;

(10) "Executive agency official" means an officer or employee of an executive agency whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of contracts, grants, leases, or other financial arrangements with an executive agency;

(11) "Aggrieved party" means a party entitled to resort to a remedy;

1 (12) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of
 2 State, Auditor of Public Accounts, State Treasurer, Attorney General, and
 3 Commissioner of Agriculture;

4 (13) "Person" means an individual, proprietorship, firm, partnership, limited liability
 5 partnership, joint venture, joint stock company, syndicate, business, trust, estate,
 6 company, corporation, limited liability corporation, association, club, committee,
 7 organization, or group of persons acting in concert;

8 (14) "Staff" means any employee of the office of the Governor, or a cabinet listed in
 9 KRS 12.250, whose official duties are to formulate policy and who exercises
 10 administrative or supervisory authority, or who authorizes the expenditure of state
 11 funds;

12 (15) "Real party in interest" means the person or entity on whose behalf an executive
 13 agency lobbyist is acting, if that person or entity is not the employer of the executive
 14 agency lobbyist; {and}

15 (16) "Substantial basis" means contacts which are intended to influence a decision that
 16 involves one or more disbursements of state funds in an amount of at least five
 17 thousand dollars (\$5,000) per year;

18 (17) "Placement agent" means an individual or firm who is compensated or hired by
 19 an employer or other real party in interest, for the purpose of influencing an
 20 executive agency decision regarding the investment of the Kentucky Retirement
 21 Systems or the Kentucky Teachers' Retirement System assets; and

22 (18) "Unregulated placement agent" means a placement agent who is prohibited by
 23 federal securities laws and regulations promulgated thereunder from receiving
 24 compensation for soliciting a government agency.

25 ➔Section 3. KRS 11A.236 is amended to read as follows:

26 (1) Except as provided in subsection (2) of this section, no person shall engage any
 27 persons to influence executive agency decisions or conduct executive agency

1 lobbying activity for compensation that is contingent in any way on the outcome of
 2 an executive agency decision and no person shall accept any engagement to
 3 influence executive agency decisions or conduct executive agency lobbying activity
 4 for compensation that is contingent in any way on the outcome of an executive
 5 agency decision.

6 (2) Subsection (1) of this section does not prohibit, and shall not be construed to
 7 prohibit:~~[-]~~

8 (a) Any person from compensating his sales employees pursuant to an incentive
 9 compensation plan, such as commission sales, if the incentive compensation
 10 plan is the same plan used to compensate similarly situated sales employees
 11 who are not executive agency lobbyists; or

12 (b) Any person from engaging a placement agent, to influence investment
 13 decisions of the Kentucky Retirement Systems and the Kentucky Teachers'
 14 Retirement System for compensation that is contingent on the outcome of
 15 investment decisions by the retirement systems' board of trustees. The
 16 provisions of this paragraph shall not apply to unregulated placement
 17 agents.

18 ➔Section 4. KRS 21.440 is amended to read as follows:

19 (1) The investment committee for the judicial retirement fund shall at least once in
 20 every two (2) year period procure an actuarial valuation of the judicial retirement
 21 fund. The valuation shall include a description of the actuarial assumptions used,
 22 and such assumptions shall be reasonably related to the experience of the fund and
 23 represent the actuary's best estimate of anticipated experience. For the period July
 24 15, 1990, to June 30, 1992, the assumed rate of investment return shall be set at one
 25 and one-half (1-1/2) percentage points above the assumed rate of salary increase.
 26 Thereafter, this spread between investment and salary assumptions shall be
 27 reviewed and adjusted annually, based upon the most recent five (5) year experience

1 of the fund. A copy of the valuation shall be forwarded to the Legislative Research
2 Commission within ten (10) days of receipt by the committee.

- 3 (2) (a) The board of trustees of the Judicial Form Retirement System shall annually
4 procure an audit of the system and each of the funds therein. The audit shall
5 be conducted in accordance with generally accepted auditing standards.
6 Except as provided by paragraph (b) of this subsection, the board may select
7 an independent certified public accountant or the Auditor of Public Accounts
8 to perform the audit. If the audit is performed by an independent certified
9 public accountant, the Auditor of Public Accounts shall not be required to
10 perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at
11 his discretion. The board shall make copies of the audit required by this
12 section available for examination by any member or beneficiary in the office
13 of the manager of the system and in such other places as may be necessary to
14 make the audit available to all members and beneficiaries. A copy of the audit
15 shall be sent to the Legislative Research Commission within ten (10) days of
16 receipt by the committee.

17 (b) Once every five (5) years the Auditor of Public Accounts shall perform the
18 audit described by this subsection and the system shall reimburse the
19 Auditor of Public Accounts for all costs of the audit. The Auditor of Public
20 Accounts shall determine which fiscal year during the five (5) year period
21 the audit prescribed by this paragraph will be completed.

22 ➔Section 5. KRS 21.450 is amended to read as follows:

- 23 (1) The benefits provided by KRS 21.350 to 21.510 to be paid shall be funded through
24 contract with a reputable life insurance company authorized to do business in this
25 state, or through investment and reinvestment of funds in securities which, at the
26 time of making the investment, are by law permitted for the investment of funds by
27 fiduciaries in this state, or through a combination of such methods. To the extent

1 that funding is provided through insurance contract, no contributions, payments or
 2 premiums shall be subject to any tax on insurance premiums or annuity
 3 considerations. The investment committee for the judicial retirement fund shall be
 4 trustee of any and all funds contributed or appropriated to the retirement system,
 5 and shall have sole authority to make insurance contracts or investments.

6 (2) The board members or any investment adviser shall discharge their duties with
 7 respect to the funds of the retirement system solely in the interest of the members
 8 and beneficiaries and:

9 (a) For the exclusive purposes of providing benefits to members and their
 10 beneficiaries and defraying reasonable expenses of administering the plan;

11 (b) With the care, skill, prudence, and diligence under the circumstances then
 12 prevailing that a prudent man acting in a like capacity and familiar with such
 13 matters would use in the conduct of an enterprise of a like character and with
 14 like aims; and

15 (c) In accordance with the laws, regulations and other instruments governing the
 16 funds.

17 (3) Any accrual of benefits provided under this or any other applicable statute shall be
 18 no less than the benefit adjustment provided for in KRS 21.405(4) from the date of
 19 the last establishment of that benefit.

20 (4) The board shall establish ethics policies and procedures by promulgation of
 21 administrative regulations in accordance with the provisions of KRS Chapter
 22 13A. The ethics policies shall include but not be limited to annual financial and
 23 conflict of interest disclosure requirements which must be completed by all board
 24 members and made available to the public upon request.

25 ➔Section 6. KRS 21.530 is amended to read as follows:

26 (1) For administrative purposes only, as hereinafter provided, the Legislators'
 27 Retirement Plan and the Judicial Retirement Plan shall be coordinated under the

name, Judicial Form Retirement System, but each of the plans shall maintain its separate identity. A board of trustees of that system hereby is created, to consist of eight (8) members, three (3) of whom shall be appointed by the Supreme Court, two (2) by the Governor, one (1) by the President of the Senate, one (1) by the Speaker of the House of Representatives, and one (1) by the president and speaker jointly. The appointments by the Governor shall not be from among the members of either of the plans in the system, or from among the persons drawing benefits from either of those plans.

(2) (a) The members of the board shall serve for terms of four (4) years, commencing as of July 1, 1980, and until their successors are chosen and have qualified; provided that if a member of the board who was a member of one (1) of the plans in the system when he was appointed ceases to be a member of that plan, a vacancy shall thereupon be deemed to exist in his position on the board; and provided further, that the members of the Judicial Retirement Board in office on July 1, 1980, shall serve for the remainder of the terms for which they were appointed, as the members of the board created by this section, in the positions appointable by the Supreme Court and the Governor. Vacancies shall be filled by the appointing authority for the unexpired term.

(b) A trustee shall not serve more than three (3) consecutive four (4) year terms. A trustee who has served three (3) consecutive terms may be appointed again after an absence of four (4) years from the board. The term limits established by this paragraph shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012 shall be used to determine if the trustee has exceeded the term limits provided by this paragraph.

(3) The members of the board shall annually elect a chairman. The chairman shall not serve more than four (4) consecutive years as chairman of the board. A trustee

who has served four (4) consecutive years as chairman of the board may be elected chairman of the board after an absence of two (2) years from the position.

(4) Gubernatorial appointees, and judicial and legislative appointees who do not receive an annual salary from the State Treasury in another capacity shall receive an amount equal to the per diem compensation paid to members of the General Assembly for each day they are in session. All members shall be reimbursed for their necessary expenses.

➔Section 7. KRS 21.540 is amended to read as follows:

(1) Except as provided in KRS 21.550, 21.560, and subsection (3) of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of that system and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make employments for services, and to contract for fiduciary liability insurance, and for investment counseling, actuarial, auditing, and other professional services as required without the limitations of KRS 45A.045. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

(2) (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.

(b) Except in cases involving child support payments, the Judicial Form Retirement System may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by

administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:

1. Solely by the participant;
2. Solely by the alternate payee; or
3. Equally shared by the participant and alternate payee.

(c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:

1. Is issued by a court or administrative agency; and
2. Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member.

(3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and 6.500 to 6.577 shall conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec. 401(a).

(4) The Judicial Form Retirement System shall make available on a public website, a listing of all system expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. The system may provide the information through a website established by the executive or judicial branch to inform the public about executive or judicial branch agency expenditures and

public employee salaries and wages. Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.

(5) No trustee or employee of the board shall:

(a) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board;

(b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;

(c) Become an indorser, surety, or obligor for moneys loaned by or borrowed from the board;

(d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;

(e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;

(f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person; or

(g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the system. The provisions of this paragraph shall not prohibit a trustee from serving as a judge or member of the General Assembly.

(6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement Plan, including fees and commissions paid to an investment manager,

private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to unregulated placement agents. For purposes of this subsection, "unregulated placement agent" means an individual or firm who solicits investments on behalf of an investment manager, private fund, or company issuing securities, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

➔Section 8. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

- (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
- (b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;
- (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
- (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and
- (e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor:
 - 1. One (1) trustee shall be knowledgeable about the impact of pension

1 requirements on local governments; and

2 2. Two (2) trustees shall have investment experience. For purposes of this
3 subparagraph, a trustee with "investment experience" means an
4 individual who does not have a conflict of interest, as provided by KRS
5 61.655, and who has at least ten (10) years of experience in one (1) of
6 the following areas of expertise:

- 7 a. A portfolio manager acting in a fiduciary capacity;
- 8 b. A professional securities analyst or investment consultant;
- 9 c. A current or retired employee or principal of a trust institution,
10 investment or finance organization, or endowment fund acting in
11 an investment-related capacity;
- 12 d. A chartered financial analyst in good standing as determined by the
13 CFA Institute;
- 14 e. A university professor, teaching economics or investment-related
15 studies; or
- 16 f. Any other professional with exceptional experience in the field of
17 public or private finances.

18 (2) The board is hereby granted the powers and privileges of a corporation, including
19 but not limited to the following powers:

- 20 (a) To sue and be sued in its corporate name;
- 21 (b) To make bylaws not inconsistent with the law;
- 22 (c) To conduct the business and promote the purposes for which it was formed;
- 23 (d) To contract for investment counseling, actuarial, auditing, medical, and other
24 professional or technical services as required to carry out the obligations of
25 the board without limitation, notwithstanding the provisions of KRS Chapters
26 45, 45A, 56, and 57;
- 27 (e) To purchase fiduciary liability insurance;

- 1 (f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or
 2 property necessary to exercise the board's powers and perform the board's
 3 duties without limitation, notwithstanding the limitations of KRS Chapters 45,
 4 45A, and 56; and
- 5 (g) The board shall reimburse any trustee, officer, or employee for any legal
 6 expense resulting from a civil action arising out of the performance of his
 7 official duties.
- 8 (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee
 9 shall serve a term of four (4) years or until his successor is duly qualified
 10 except as otherwise provided in this section. An elected trustee or a trustee
 11 appointed by the Governor under paragraph (1)(e) of this section, shall not
 12 serve more than three (3) consecutive four (4) year terms. An elected trustee
 13 or a trustee appointed by the Governor under paragraph (1)(e) of this
 14 section, who has served three (3) consecutive terms may be elected or
 15 appointed again after an absence of four (4) years from the board.
- 16 (b) The term limits established by paragraph (a) of this subsection shall apply
 17 to trustees serving on or after July 1, 2012, and all terms of office served
 18 prior to July 1, 2012, shall be used to determine if the trustee has exceeded
 19 the term limits provided by paragraph (a) of this subsection.
- 20 (4) (a) The trustees selected by the membership of each of the various retirement
 21 systems shall be elected by ballot. For each trustee to be elected, the board
 22 may nominate, not less than six (6) months before a term of office of a trustee
 23 is due to expire, three (3) constitutionally eligible individuals.
- 24 (b) Individuals may be nominated by the retirement system members which are to
 25 elect the trustee by presenting to the executive director, not less than four (4)
 26 months before a term of office of a trustee is due to expire, a petition, bearing
 27 the name, last four digits of the Social Security number, and signature of no

1 less than one-tenth (1/10) of the number voting in the last election by the
2 retirement system members.

3 (c) Within four (4) months of the nominations made in accordance with
4 paragraphs (a) and (b) of this subsection, the executive director shall cause to
5 be prepared an official ballot. The ballot shall carry the name, address, and
6 position title of each individual nominated by the board and by petition.
7 Provisions shall also be made for write-in votes.

8 (d) The ballots shall be distributed to the eligible voters by mail to their last
9 known residence address.

10 (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of
11 a predetermined box number at a United States Post Office located within
12 Kentucky. Access to this post office box shall be limited to the board's
13 contracted auditing firm. The individual receiving a plurality of votes shall be
14 declared elected.

15 (f) The eligible voter shall cast his ballot by checking a square opposite the name
16 of the candidate of his choice. He shall sign and mail the ballot at least thirty
17 (30) days prior to the date the term to be filled is due to expire. The latest
18 mailing date shall be printed on the ballot.

19 (g) The board's contracted auditing firm shall report in writing the outcome to the
20 chair of the board of trustees. Cost of an election shall be payable from the
21 funds of the system for which the trustee is elected.

22 (h) For purposes of this subsection, an eligible voter shall be a person who was a
23 member of the retirement system on December 31 of the year preceding the
24 election year.

25 (i) Each individual who submits a request to be nominated by the board under
26 paragraph (4)(a) of this subsection and each individual who is nominated
27 by the membership under paragraph (4)(b) of this subsection shall:

1 1. Complete an application developed by the retirement systems which
 2 shall include but not be limited to a disclosure of any prior felonies
 3 and any conflicts of interest that would hinder the individual's ability
 4 to serve on the board;

5 2. Submit a resume detailing the individual's education and employment
 6 history and a cover letter detailing the member's qualifications for
 7 serving as trustee to the board; and

8 3. Authorize the systems to have a criminal background check
 9 performed. The criminal background check shall be performed by the
 10 Kentucky Department for State Police.

11 (5) Any vacancy which may occur in an appointed position shall be filled in the same
 12 manner which provides for the selection of the particular trustee, and any vacancy
 13 which may occur in an elected position shall be filled by appointment by a majority
 14 vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns
 15 his position as trustee, it shall be filled by appointment made by the Governor;
 16 however, any vacancy shall be filled only for the duration of the unexpired term.

17 (6) (a) Membership on the board of trustees shall not be incompatible with any other
 18 office unless a constitutional incompatibility exists. No trustee shall serve in
 19 more than one (1) position as trustee on the board; and if a trustee holds more
 20 than one (1) position as trustee on the board, he shall resign a position.

21 (b) A trustee shall be removed from office upon conviction of a felony or for a
 22 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court
 23 of competent jurisdiction.

24 (c) A current or former employee of Kentucky Retirement Systems shall not be
 25 eligible to serve as a member of the board.

26 (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive
 27 a per diem of eighty dollars (\$80) for each day they are in session or on official

1 duty, and they shall be reimbursed for their actual and necessary expenses in
2 accordance with state administrative regulations and standards.

3 (8) (a) The board shall meet at least once in each quarter of the year and may meet in
4 special session upon the call of the chair or the executive director.

5 (b) The board~~[It]~~ shall elect a chair and a vice chair. The chair shall not serve
6 more than four (4) consecutive years as chair or vice-chair of the board.
7 The vice-chair shall not serve more than four (4) consecutive years as chair
8 or vice-chair of the board. A trustee who has served four (4) consecutive
9 years as chair or vice-chair of the board may be elected chair or vice-chair
10 of the board after an absence of two (2) years from the positions.

11 (c) A majority of the trustees shall constitute a quorum and all actions taken by
12 the board shall be by affirmative vote of a majority of the trustees present.

13 (9) (a) The board of trustees shall appoint or contract for the services of an executive
14 director and fix the compensation and other terms of employment for this
15 position without limitation of the provisions of KRS Chapters 18A and 45A
16 and KRS 64.640. The executive director shall be the chief administrative
17 officer of the board.

18 (b) The board of trustees shall authorize the executive director to appoint the
19 employees deemed necessary to transact the business of the system. For an
20 appointee deemed to be in a policy-making position, the board shall determine
21 the compensation and other terms of employment for the policy-making
22 position without limitation of the provisions of KRS Chapter 18A. Anything
23 in the Kentucky Revised Statutes to the contrary notwithstanding, the power
24 over and control of determining and maintaining an adequate complement of
25 employees shall be under the exclusive jurisdiction of the board of trustees.

26 (c) Effective December 1, 2002, all employees of the Kentucky Retirement
27 Systems shall be transferred to a personnel system adopted by the board.

1 Employees of Kentucky Retirement Systems covered by the personnel system
2 adopted by the board shall be:

- 3 1. Provided the same health insurance coverage as all other state
4 government employees as provided in KRS 18A.225;
- 5 2. Eligible to participate in the deferred compensation system provided for
6 all state government employees as provided in KRS 18A.250 to
7 18A.265;
- 8 3. Provided the same life insurance coverage provided all state employees
9 as provided in KRS 18A.205 to 18A.215;
- 10 4. Reimbursed for all reasonable and necessary travel expenses and
11 disbursements incurred or made in the performance of official duties in
12 accordance with KRS Chapter 45;
- 13 5. Ensured equal employment opportunity regardless of race, color, gender,
14 religion, national origin, disability, sexual orientation, or age;
- 15 6. Given those holidays and rights granted to state employees as provided
16 in KRS 18A.190;
- 17 7. Paid a salary not less than the salary paid as of the date of transfer to the
18 personnel system, unless voluntarily demoted or involuntarily demoted
19 for cause;
- 20 8. Credited with all accumulated sick leave, compensatory time, and
21 annual leave accumulated in accordance with KRS Chapter 18A, and for
22 an employee leaving service, the system shall attest to the employee's
23 accumulated sick leave, compensatory time, and annual leave which
24 shall be credited with other state and county employers to the extent
25 provided for by statute or policy. The Kentucky Retirement Systems
26 may, at the discretion of the board, accept from other state and county
27 employers all accumulated sick leave, compensatory time, and annual

1 leave for an employee leaving a state or county employer and accepting
2 employment with the Kentucky Retirement Systems. The executive
3 branch shall accept from the Kentucky Retirement Systems all
4 accumulated sick leave, compensatory time, and annual leave for an
5 employee leaving the Kentucky Retirement Systems and accepting
6 employment with the executive branch. The Kentucky Retirement
7 Systems shall accept from the executive branch all accumulated sick
8 leave, compensatory time, and annual leave for an employee leaving the
9 executive branch and accepting employment with the Kentucky
10 Retirement Systems;

11 9. Classified with status upon transfer to the personnel system on
12 December 1, 2002, if the employee was classified with status as a merit
13 employee under KRS Chapter 18A. Any employee of the Kentucky
14 Retirement Systems transferred on December 1, 2002, during the
15 probationary period before earning classified status as a merit system
16 employee under KRS Chapter 18A shall transfer all accrued
17 probationary time and the time shall be credited to the probationary time
18 required to attain classified status in the personnel system;

19 10. Ensured a grievance appeal procedure and the employee's right to have a
20 representative present at each step of the grievance procedure; and

21 11. Ensured of the right of appeal in a manner consistent with the provisions
22 of KRS 18A.095 to the Kentucky Personnel Board and employees
23 classified with status in the personnel system shall not be dismissed,
24 demoted, suspended, or otherwise penalized except for cause.

25 (d) The board shall adopt by administrative regulation a fair, equitable, and
26 comprehensive personnel policy with a minimum of the following provisions
27 for the personnel system:

- 1 1. A code of conduct including provisions describing performance of
- 2 duties, abuse of position, conflicts of interest, and outside employment;
- 3 2. An appointments plan including provisions describing the appointing
- 4 authority, appointments, equal employment policy, sexual harassment
- 5 policy, and drug-free workplace policy;
- 6 3. A classification plan including provisions describing class
- 7 specifications, position actions, and employee actions;
- 8 4. A compensation plan based on qualifications, experience, and
- 9 responsibilities and including provisions which describe a salary
- 10 schedule, salary adjustments, salary advancements, and an employee
- 11 suggestion program;
- 12 5. Separations, disciplinary actions, and appeal policies including
- 13 provisions describing classified with status, exemptions from classified
- 14 with status, layoffs, abolishment of position, dismissals and notification
- 15 of dismissal, dismissals during probationary period, disciplinary actions,
- 16 right of appeal, grievance and appeal procedures, and an employee
- 17 grievance and appeal committee;
- 18 6. Service and benefits regulations including provisions describing hours of
- 19 work, fringe benefits, workers' compensation, payroll deductions,
- 20 holidays, inclement weather days, compensatory time, retirement,
- 21 resignations, employee evaluations, and political activities; and
- 22 7. Leave policies including provisions describing special leave, annual
- 23 leave, court leave and jury duty, military leave, voting leave, educational
- 24 leave, sick leave, family medical leave, leave without pay, absence
- 25 without leave, and blood donation leave.
- 26 (e) The board shall require the executive director and the employees as it thinks
- 27 proper to execute bonds for the faithful performance of their duties

1 notwithstanding the limitations of KRS Chapter 62.

2 (f) The board shall establish a system of accounting.

3 (g) The board shall do all things, take all actions, and promulgate all
4 administrative regulations, not inconsistent with the provisions of KRS 16.505
5 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in
6 order to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705,
7 and 78.510 to 78.852. Notwithstanding any other evidence of legislative
8 intent, it is hereby declared to be the controlling legislative intent that the
9 provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852
10 conform with federal statute or regulation and meet the qualification
11 requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and
12 other published guidance. Provisions of KRS 16.505 to 16.652, 61.510 to
13 61.705, and 78.510 to 78.852 which conflict with federal statute or regulation
14 or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations,
15 and other published guidance shall not be available. The board shall have the
16 authority to promulgate administrative regulations to conform with federal
17 statute and regulation and to meet the qualification requirements under 26
18 U.S.C. sec. 401(a), including an administrative regulation to comply with 26
19 U.S.C. sec. 401(a)(9). The board shall have the authority to promulgate an
20 administrative regulation to comply with any consent decrees entered into by
21 the board in Civil Action No. 3:99CV500(C) in order to bring the systems into
22 compliance with the Age Discrimination in Employment Act, 29 U.S.C.
23 Section 621, et seq., as amended.

24 (10) All employees of the board shall serve during its will and pleasure. Notwithstanding
25 any statute to the contrary, employees shall not be considered legislative agents
26 under KRS 6.611.

27 (11) The Attorney General, or an assistant designated by him, may attend each meeting

1 of the board and may receive the agenda, board minutes, and other information
 2 distributed to trustees of the board upon request. The Attorney General may act as
 3 legal adviser and attorney for the board, and the board may contract for legal
 4 services, notwithstanding the limitations of KRS Chapter 12 or 13B.

5 (12) (a) The system shall publish an annual financial report showing all receipts,
 6 disbursements, assets, and liabilities. The annual report shall include a copy of
 7 an audit conducted in accordance with generally accepted auditing standards.
 8 Except as provided by paragraph (b) of this subsection, the board may select
 9 an independent certified public accountant or the Auditor of Public Accounts
 10 to perform the audit. If the audit is performed by an independent certified
 11 public accountant, the Auditor of Public Accounts shall not be required to
 12 perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at
 13 his discretion. All proceedings and records of the board shall be open for
 14 inspection by the public. The system shall make copies of the audit required
 15 by this subsection available for examination by any member, retiree, or
 16 beneficiary in the office of the executive director of the Kentucky Retirement
 17 Systems and in other places as necessary to make the audit available to all
 18 members, retirees, and beneficiaries. A copy of the annual audit shall be sent
 19 to the Legislative Research Commission no later than ten (10) days after
 20 receipt by the board.

21 (b) At least once every five (5) years the Auditor of Public Accounts shall
 22 perform the audit described by this subsection and the system shall
 23 reimburse the Auditor of Public Accounts for all costs of the audit. The
 24 Auditor of Public Accounts shall determine which fiscal year during the
 25 five (5) year period the audit prescribed by this paragraph will be completed.

26 (13) All expenses incurred by or on behalf of the system and the board in the
 27 administration of the system during a fiscal year shall be paid from the retirement

1 allowance account. Any other statute to the contrary notwithstanding, authorization
2 for all expenditures relating to the administrative operations of the system shall be
3 contained in the biennial budget unit request, branch budget recommendation, and
4 the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

5 (14) Any person adversely affected by a decision of the board, except as provided under
6 subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652,
7 61.510 to 61.705, and 78.510 to 78.852, may appeal the decision of the board to the
8 Franklin Circuit Court within sixty (60) days of the board action.

9 (15) (a) A trustee shall discharge his duties as a trustee, including his duties as a
10 member of a committee:

- 11 1. In good faith;
- 12 2. On an informed basis; and
- 13 3. In a manner he honestly believes to be in the best interest of the
14 Kentucky Retirement Systems.

15 (b) A trustee discharges his duties on an informed basis if, when he makes an
16 inquiry into the business and affairs of the Kentucky Retirement Systems or
17 into a particular action to be taken or decision to be made, he exercises the
18 care an ordinary prudent person in a like position would exercise under similar
19 circumstances.

20 (c) In discharging his duties, a trustee may rely on information, opinions, reports,
21 or statements, including financial statements and other financial data, if
22 prepared or presented by:

- 23 1. One (1) or more officers or employees of the Kentucky Retirement
24 Systems whom the trustee honestly believes to be reliable and competent
25 in the matters presented;
- 26 2. Legal counsel, public accountants, actuaries, or other persons as to
27 matters the trustee honestly believes are within the person's professional

1 or expert competence; or

2 3. A committee of the board of trustees of which he is not a member if the
3 trustee honestly believes the committee merits confidence.

4 (d) A trustee shall not be considered as acting in good faith if he has knowledge
5 concerning the matter in question that makes reliance otherwise permitted by
6 paragraph (c) of this subsection unwarranted.

7 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
8 shall not be the basis for monetary damages or injunctive relief unless:

9 1. The trustee has breached or failed to perform the duties of the trustee's
10 office in compliance with this section; and

11 2. In the case of an action for monetary damages, the breach or failure to
12 perform constitutes willful misconduct or wanton or reckless disregard
13 for human rights, safety, or property.

14 (f) A person bringing an action for monetary damages under this section shall
15 have the burden of proving by clear and convincing evidence the provisions of
16 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
17 breach or failure to perform was the legal cause of damages suffered by the
18 Kentucky Retirement Systems.

19 (g) Nothing in this section shall eliminate or limit the liability of any trustee for
20 any act or omission occurring prior to July 15, 1988.

21 (h) In discharging his or her administrative duties under this section, a trustee
22 shall strive to administer the retirement system in an efficient and cost-
23 effective manner for the taxpayers of the Commonwealth of Kentucky.

24 (16) When an order by the system substantially impairs the benefits or rights of a
25 member, retired member, or recipient, except action which relates to entitlement to
26 disability benefits, the affected member, retired member, or recipient may request a
27 hearing to be held in accordance with KRS Chapter 13B. The board may establish

1 an appeals committee whose members shall be appointed by the chair and who shall
2 have authority to act upon the recommendations and reports of the hearing officer
3 on behalf of the board. The member, retired member, or recipient aggrieved by a
4 final order of the board following the hearing may appeal the decision to the
5 Franklin Circuit Court, in accordance with KRS Chapter 13B.

6 (17) The board shall give the Kentucky Education Support Personnel Association
7 twenty-four (24) hours notice of the board meetings, to the extent possible.

8 (18) The board shall establish a formal trustee education program for all trustees of the
9 board. The program shall include but not be limited to the following:

10 (a) A required orientation program for all new trustees elected or appointed to the
11 board. The orientation program shall include training on:

- 12 1. Benefits and benefits administration;
- 13 2. Investment concepts, policies, and current composition and
14 administration of retirement systems investments;
- 15 3. Laws, bylaws, and administrative regulations pertaining to the
16 retirement systems and to fiduciaries; and
- 17 4. Actuarial and financial concepts pertaining to the retirement systems.

18 If a trustee fails to complete the orientation program within one (1) year from
19 the beginning of his or her first term on the board, the retirement systems shall
20 withhold payment of the per diem and travel expenses due to the board
21 member under this section and KRS 16.640 and 78.780 until the trustee has
22 completed the orientation program;

23 (b) Annual required training for board members on the administration, benefits,
24 financing, and investing of the retirement systems. If a trustee fails to
25 complete the annual required training during the calendar or fiscal year, the
26 retirement systems shall withhold payment of the per diem and travel
27 expenses due to the board member under this section and KRS 16.640 and

1 78.780 until the board member has met the annual training requirements; and

2 (c) The retirement systems shall incorporate by reference in an administrative
3 regulation, pursuant to KRS 13A.2251, the trustee education program.

4 (19) In order to improve public transparency regarding the administration of the systems,
5 the board of trustees shall adopt a best practices model by posting the following
6 information to the retirement systems' Web site and shall make available to the
7 public:

8 (a) Meeting notices and agendas for all meetings of the board. Notices and
9 agendas shall be posted to the retirement systems' Web site at least seventy-
10 two (72) hours in advance of the board or committee meetings, except in the
11 case of special or emergency meetings as provided by KRS 61.823;

12 (b) The Comprehensive Annual Financial Report with the information as follows:

13 1. A general overview and update on the retirement systems by the
14 executive director;

15 2. A listing of the board of trustees;

16 3. A listing of key staff;

17 4. An organizational chart;

18 5. Financial information, including a statement of plan net assets, a
19 statement of changes in plan net assets, an actuarial value of assets, a
20 schedule of investments, a statement of funded status and funding
21 progress, and other supporting data;

22 6. Investment information, including a general overview, a list of the
23 retirement system's professional consultants, a total return on retirement
24 systems investments over a historical period, an investment summary,
25 contracted investment management expenses, transaction commissions,
26 and a schedule of investments;

27 7. The annual actuarial valuation report on the pension benefit and the

1 medical insurance benefit; and

2 8. A general statistical section, including information on contributions,
3 benefit payouts, and retirement systems' demographic data;

4 (c) All external audits;

5 (d) All board minutes or other materials that require adoption or ratification by
6 the board of trustees. The items listed in this paragraph shall be posted within
7 seventy-two (72) hours of adoption or ratification of the board;

8 (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;

9 (f) The retirement systems' summary plan description;

10 (g) A document containing an unofficial copy of the statutes governing the
11 systems administered by Kentucky Retirement Systems;

12 (h) A listing of the members of the board of trustees and membership on each
13 committee established by the board, including any investment committees;

14 (i) All investment holdings and commissions for each fund administered by the
15 board. The board shall update the list of holdings and commissions on a
16 quarterly basis for fiscal years beginning on or after July 1, 2008;~~{and}~~

17 (j) An update of investment returns, asset allocations, and the performance of the
18 funds against benchmarks adopted by the board for each fund and for each
19 asset class administered by the board. The update shall be posted on a
20 quarterly basis for fiscal years beginning on or after July 1, 2008;and

21 (k) A searchable database of the systems' expenditures and a listing of each
22 individual employed by the systems along with the employee's salary or
23 wages. In lieu of posting the information required by this paragraph to the
24 systems' website, the systems may provide the information through a website
25 established by the executive branch to inform the public about executive
26 branch agency expenditures and public employee salaries and wages. No
27 provision of this paragraph shall require the systems to disclose confidential

member information protected under KRS 61.661.

(20) Notwithstanding the requirements of subsection (19) of this section, the retirement systems shall not be required to furnish information that is protected under KRS 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement systems' ability to competitively invest in real estate or other asset classes, or to competitively negotiate vendor fees.

(21) Notwithstanding any other provision of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 to the contrary, no funds of the systems administered by Kentucky Retirement Systems, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to unregulated placement agents. For purposes of this subsection, "unregulated placement agent" means an individual or firm who solicits investments on behalf of an investment manager, private fund, or company issuing securities, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

➔ Section 9. KRS 61.655 is amended to read as follows:

No trustee or employee of the Kentucky Retirement Systems board shall:

(1) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, save insofar as any such trustee or employee may be a member, employee, or beneficiary of the retirement system;[-]

(2) ~~[No trustee of the board shall,]~~ Directly or indirectly, for himself or as an agent, ~~[in any manner]~~ use the assets~~[funds or deposits]~~ of the retirement system, except to make current and necessary~~[such]~~ payments ~~[therefrom as are]~~ authorized by the board;

(3) ~~[nor shall any trustee of the board]~~ Become an indorser or surety or in any manner an obligor for moneys loaned by or borrowed from the board;

- 1 (4) Have a contract or agreement with the retirement system, individually or through
 2 a business owned by the trustee or the employee;
- 3 (5) Use his or her official position with the retirement system to obtain a financial
 4 gain or benefit or advantage for himself or herself or a family member;
- 5 (6) Use confidential information acquired during his or her tenure with the systems
 6 to further his or her own economic interests or that of another person; or
- 7 (7) Hold outside employment with, or accept compensation from, any person or
 8 business with which he or she has involvement as part of his or her official
 9 position with the retirement system. The provisions of this subsection shall not
 10 prohibit a trustee from serving as an employee of an agency participating in one
 11 of the systems administered by Kentucky Retirement Systems.

12 ➔Section 10. KRS 161.250 is amended to read as follows:

- 13 (1) (a) The general administration and management of the retirement system, and the
 14 responsibility for its proper operation and for making effective provisions of
 15 KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be
 16 known as the "Board of Trustees of the Teachers' Retirement System of the
 17 State of Kentucky."
- 18 (b) The board of trustees shall consist of the chief state school officer, the State
 19 Treasurer, and seven (7) other trustees elected as provided in KRS 161.260.
 20 Four (4) of the elective trustees shall be members of the retirement system, to
 21 be known as teacher trustees, two (2) shall be persons who are not members of
 22 the teaching profession, to be known as the lay trustees, and one (1) shall be
 23 an annuitant of the retirement system to be known as the retired teacher
 24 trustee. One (1) teacher trustee shall be elected annually for a four-year term.
 25 The retired teacher trustee shall be elected every four (4) years. The chief state
 26 school officer and the State Treasurer are considered ex officio members of
 27 the board of trustees and may designate in writing a person to represent them

1 at board meetings.

2 (c) 1. Elective trustees shall not serve more than three (3) consecutive four (4)
3 year terms. An elective trustee who has served three (3) consecutive
4 terms may be elected again after an absence of four (4) years from the
5 board of trustees.

6 2. The term limits established by subparagraph 1. of this paragraph shall
7 apply to elective trustees serving on or after July 1, 2012, and all terms
8 of office served prior to July 1, 2012 shall be used to determine if the
9 elective trustee has exceeded the term limits provided by subparagraph
10 1. of this paragraph.

11 (2) A member, retired member, or designated beneficiary may appeal the retirement
12 system's decisions that materially affect the amount of service retirement allowance,
13 amount of service credit, eligibility for service retirement, or eligibility for
14 survivorship benefits to which that member, retired member, or designated
15 beneficiary claims to be entitled. All appeals must be in writing and filed with the
16 retirement system within thirty (30) days of the claimant's first notice of the
17 retirement system's decision. For purposes of this section, notice shall be complete
18 and effective upon the date of mailing of the retirement system's decision to the
19 claimant at the claimant's last known address. Failure by the claimant to file a
20 written appeal with the retirement system within the thirty (30) day period shall
21 result in the decision of the retirement system becoming permanent with the effect
22 of a final and unappealable order. Appeals may include a request for an
23 administrative hearing which shall be conducted in accordance with the provisions
24 of KRS Chapter 13B. The board of trustees may establish an appeals committee
25 whose members shall be appointed by the chairperson and who shall have the
26 authority to act upon the report and recommendation of the hearing officer by
27 issuing a final order on behalf of the full board of trustees. A member, retired

1 member, or designated beneficiary who has filed a timely, written appeal of a
2 decision of the retirement system may, following the administrative hearing and
3 issuance of the final order by the board of trustees, appeal the final order of the
4 board of trustees to the Franklin Circuit Court in accordance with the provisions of
5 KRS Chapter 13B.

6 (3) The board of trustees shall establish a formal trustee education program for all
7 trustees of the board. The program shall include but not be limited to the following:

8 (a) A required orientation program for all new trustees to the board. The
9 orientation program shall include training on:

- 10 1. Benefits and benefits administration;
- 11 2. Investment concepts, policies, and current composition and
12 administration of retirement system investments;
- 13 3. Laws, bylaws, and administrative regulations pertaining to the
14 retirement system and to fiduciaries; and
- 15 4. Actuarial and financial concepts pertaining to the retirement system.

16 If a trustee fails to complete the orientation program within one (1) year from
17 the beginning of his or her first term on the board, the retirement system shall
18 withhold payment of the per diem and travel expenses due to the board
19 member under KRS 161.290 until the trustee has completed the orientation
20 program;

21 (b) Annual required training for trustees on the administration, benefits,
22 financing, and investing of the retirement system. If a trustee fails to complete
23 the annual required training during the calendar or fiscal year, the retirement
24 system shall withhold payment of the per diem and travel expenses due to the
25 board member under KRS 161.290 until the board member has met the annual
26 training requirements; and

27 (c) The retirement system shall incorporate by reference in an administrative

1 regulation, pursuant to KRS 13A.2251, the trustee education program.

2 (4) In order to improve public transparency regarding the administration of the system,
3 the board of trustees shall adopt a best practices model by posting the following
4 information to the retirement system's Web site and shall make available to the
5 public:

6 (a) Meeting notices and agendas for all meetings of the board. Notices and
7 agendas shall be posted to the retirement system's Web site at least seventy-
8 two (72) hours in advance of the board or committee meetings, except in the
9 case of special or emergency meetings as provided by KRS 61.823;

10 (b) The Comprehensive Annual Financial Report with the information as follows:

- 11 1. A general overview and update on the retirement system by the
12 executive secretary;
- 13 2. A listing of the board of trustees;
- 14 3. A listing of key staff;
- 15 4. An organizational chart;
- 16 5. Financial information, including a statement of plan net assets, a
17 statement of changes in plan net assets, an actuarial value of assets, a
18 schedule of investments, a statement of funded status and funding
19 progress, and other supporting data;
- 20 6. Investment information, including a general overview, a list of the
21 retirement system's professional consultants, a total return on retirement
22 system investments over a historical period, an investment summary,
23 contracted investment management expenses, transaction commissions,
24 and a schedule of investments;
- 25 7. The annual actuarial valuation report on the pension benefit and the
26 medical insurance benefit; and
- 27 8. A general statistical section, including information on contributions,

- benefit payouts, and retirement system demographic data;
- (c) All external audits;
 - (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
 - (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
 - (f) The retirement system's summary plan description;
 - (g) The retirement system's law book;
 - (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
 - (i) All investment holdings and commissions for each fund administered by the board. The board shall update the list of holdings and commissions on a quarterly basis for fiscal years beginning on or after July 1, 2008;~~{and}~~
 - (j) An update of investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund and for each asset class administered by the board. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2008; and
 - (k) A searchable database of the system's expenditures and a listing of each individual employed by the system along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the system's website, the system may provide the information through a website established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages. No provision of this paragraph shall require the systems to disclose confidential member information protected under KRS 161.585.
- (5) Notwithstanding the requirements of subsection (4) of this section, the retirement system shall not be required to furnish information that is protected under KRS

1 161.585, exempt under KRS 61.878, or that, if disclosed, would compromise the
 2 retirement system's ability to competitively invest in real estate or other asset classes
 3 or to competitively negotiate vendor fees.

- 4 (6) For any benefit improvements the General Assembly has authorized the board of
 5 trustees to establish under KRS 161.220 to 161.716 and that require formal
 6 adoption by the board, the board shall establish the benefits by promulgation of
 7 administrative regulations in accordance with KRS Chapter 13A.

8 ➔ Section 11. KRS 161.340 is amended to read as follows:

- 9 (1) (a) The board of trustees shall elect from its membership a chairperson and a vice
 10 chairperson on an annual basis as prescribed by the administrative regulations
 11 of the board of trustees. The chairperson shall not serve more than four (4)
 12 consecutive years as chairperson or vice chairperson of the board. The vice
 13 chairperson shall not serve more than four (4) consecutive years as
 14 chairperson or vice chairperson of the board. A trustee who has served four
 15 (4) consecutive years as chairperson or vice chairperson of the board may
 16 be elected chairperson or vice chairperson of the board after an absence of
 17 two (2) years from the positions.

- 18 (b) The board of trustees shall employ an executive secretary by means of a
 19 contract not to exceed a period of four (4) years and fix the compensation and
 20 other terms of employment for this position without limitation of the
 21 provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive
 22 secretary shall be the chief administrative officer of the board. The executive
 23 secretary, at the time of employment, shall be a graduate of a four (4) year
 24 college or university, and shall possess qualifications as the board of trustees
 25 may require. The executive secretary shall not have held by appointment or
 26 election an elective public office within the five (5) year period next preceding
 27 the date of employment.

- 1 (2) The board shall employ clerical, administrative, and other personnel as are required
2 to transact the business of the retirement system. The compensation of all persons
3 employed by the board shall be paid at the rates and in amounts as the board
4 approves. Anything in the Kentucky Revised Statutes to the contrary
5 notwithstanding, the power over and the control of determining and maintaining an
6 adequate complement of employees in the system shall be under the exclusive
7 jurisdiction of the board of trustees.
- 8 (3) The board shall contract for actuarial, auditing, legal, medical, investment
9 counseling, and other professional or technical services, and commodities, as are
10 required to carry out the obligations of the board in accordance with the provisions
11 of this chapter without limitations, including KRS Chapters 12, 13B, 45, 45A, 56,
12 and 57, and shall provide for legal counsel and other legal services as may be
13 required in defense of trustees, officers, and employees of the system who may be
14 subjected to civil action arising from the performance of their legally assigned
15 duties if counsel and services are not provided by the Attorney General.
- 16 (4) The board shall require the trustees, executive secretary, and employees it
17 determines proper to execute bonds for the faithful performance of their duties
18 notwithstanding the limitations of KRS Chapter 62.
- 19 (5) The board of trustees may expend funds from the expense fund as necessary to
20 insure the trustees, employees, and officials of the Teachers' Retirement System
21 against any liability arising out of an act or omission committed in the scope and
22 course of performing legal duties.
- 23 (6) Notwithstanding any statute to the contrary, employees shall not be considered
24 legislative agents as defined in KRS 6.611.
- 25 (7) Notwithstanding any statute to the contrary, the executive branch of government
26 shall accept from the Kentucky Teachers' Retirement System all accrued annual and
27 sick leave balances and service credits of employees leaving the Kentucky Teachers'

1 Retirement System and accepting appointments within the executive branch. These
 2 leave balances shall be attested to by the Kentucky Teachers' Retirement System
 3 and shall not exceed those limits established by statute or administrative regulation
 4 for employees of the executive branch.

5 ➔Section 12. KRS 161.370 is amended to read as follows:

6 (1) The State Treasurer, the Auditor of Public Accounts, and the Attorney General shall
 7 be treasurer, auditor, and legal adviser, respectively, of the board of trustees, and
 8 shall be liable upon their official bonds for the faithful performance of such duties.
 9 They shall serve without compensation except as provided by paragraph (2)(b) of
 10 this Section. When the board of trustees deems it for the best interests of the
 11 retirement system, it may employ attorneys and pay reasonable fees for the services
 12 rendered.

13 (2) (a) The board shall annually procure an audit of the Teachers' Retirement System.
 14 The audit shall be conducted in accordance with generally accepted auditing
 15 standards. Except as provided by paragraph (b) of this subsection, the board
 16 may select an independent certified public accountant to perform the audit
 17 and pay reasonable fees for the services rendered. If the audit is performed by
 18 an independent certified public accountant, the Auditor of Public Accounts
 19 shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but
 20 may perform an audit at his discretion.

21 (b) At least once every five (5) years the Auditor of Public Accounts shall
 22 perform the audit described by this subsection and the system shall
 23 reimburse the Auditor of Public Accounts for all costs of the audit. The
 24 Auditor of Public Accounts shall determine which fiscal year during the
 25 five (5) year period the audit prescribed by this paragraph will be completed.

26 (3) The board shall make copies of the audit required by this section available for
 27 examination by any active contributing member or annuitant in the office of the

1 executive secretary of the Teachers' Retirement System and in such other places as
2 may be necessary to make the audit available to all active contributing members and
3 annuitants. A copy of the annual audit shall be sent to the Legislative Research
4 Commission no later than ten (10) days after receipt by the board.

5 ➔Section 13. KRS 161.430 is amended to read as follows:

- 6 (1) The board of trustees shall be the trustee of the funds of the retirement system and
7 shall have full power and responsibility for the purchase, sale, exchange, transfer, or
8 other disposition of the investments and moneys of the retirement system. The
9 board shall, by administrative regulation, establish investment policies and
10 procedures to carry out their responsibilities. The board shall employ experienced
11 competent investment counselors to advise it on all matters pertaining to
12 investment, except the board may employ qualified investment personnel to advise
13 it on investment matters not to exceed fifty percent (50%) of the book value of the
14 system's assets. All individuals associated with the investment and management of
15 retirement system assets, whether contracted investment advisors or staff
16 employees, shall adhere to "The Code of Ethics" and "The Standards of Professional
17 Conduct" promulgated by the Association for Investment Management and
18 Research. Effective July 1, 1991, no investment counselor shall manage more than
19 forty percent (40%) of the funds of the retirement system. The board may appoint an
20 investment committee consisting of the executive secretary and two (2) trustees to
21 act for the board in all matters of investment, subject to the approval of the board of
22 trustees. The board of trustees, in keeping with their responsibilities as trustees and
23 wherever consistent with their fiduciary responsibilities, shall give priority to the
24 investment of funds in obligations calculated to improve the industrial development
25 and enhance the economic welfare of the Commonwealth. Toward this end, the
26 board shall develop procedures for informing the business community of the
27 potential for in-state investments by the retirement fund, accepting and evaluating

1 applications for the in-state investment of funds, and working with members of the
 2 business community in executing in-state investments which are consistent with the
 3 board's fiduciary responsibilities. The board shall include in the criteria it uses to
 4 evaluate in-state investments their potential for creating new employment
 5 opportunities and adding to the total job pool in Kentucky. The board may
 6 cooperate with the board of trustees of Kentucky Retirement Systems in developing
 7 its program and procedures, and shall report to the Legislative Research
 8 Commission annually on its progress in placing in-state investments. The first
 9 report shall be submitted by October 1, 1991, and subsequent reports shall be
 10 submitted by October 1 of each year thereafter. The report shall include the number
 11 of applications for in-state investment received, the nature of the investments
 12 proposed, the amount requested, the amount invested, and the percentage of
 13 applications which resulted in investments.

14 (2) The board members and investment counselor shall discharge their duties with
 15 respect to the assets of the system solely in the interests of the active contributing
 16 members and annuitants and:

- 17 (a) For the exclusive purpose of providing benefits to members and annuitants
 18 and defraying reasonable expenses of administering the system;
- 19 (b) With the care, skill, prudence, and diligence under the circumstances then
 20 prevailing that a prudent person acting in a like capacity and familiar with
 21 these matters would use in the conduct of an enterprise of a like character and
 22 with like aims;
- 23 (c) By diversifying the investments of the plan so as to minimize the risk of large
 24 losses, unless under the circumstances it is clearly prudent not to do so; and
- 25 (d) In accordance with the laws, administrative regulations, and other instruments
 26 governing the system.

27 (3) (a) In choosing and contracting for professional investment management services

the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management services shall be financed from the guarantee fund in amounts approved by the board.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or
2. A bank as defined by that Act; or
3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit its staff and investment counselors employed pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.

(5) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.

(6) Notwithstanding any other provision of KRS 161.220 to 161.716, no funds of the Kentucky Teachers' Retirement System, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to unregulated placement agents. For purposes of this subsection, an "unregulated

placement agent" means an individual or firm who solicits investments on behalf of an investment manager, private fund, or company issuing securities, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

➔Section 14. KRS 161.460 is amended to read as follows:

No ~~trustee~~[member] or employee of the board of trustees shall:

(1) Have any interest, direct or indirect, in the gain or profits of any investment or transaction made by the board;~~[- or -]~~

(2) Directly or indirectly, for himself or as an agent for another use any of the assets of the retirement system in any manner except to make current and necessary payments authorized by the board;~~[- or -]~~

(3) Become an endorser, surety, or obligor for moneys loaned to or borrowed from the board~~[- or otherwise profit from any transaction of the board]~~.

(4) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;

(5) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;

(6) Use confidential information acquired during his or her tenure with the system to further his or her own economic interests or that of another person; or

(7) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the retirement system. The provisions of this subsection shall not prohibit a trustee from serving as an employee of an agency participating in the Kentucky Teachers' Retirement System.

➔Section 15. Notwithstanding any provision of 2008 (1st Extra. Sess.) Ky. Acts ch. 1, paragraph (2)(b) of Section 6 of this Act, subsection (3) of Section 8 of this Act, and paragraph (1)(c) of Section 10 of this Act to the contrary, a current trustee of the

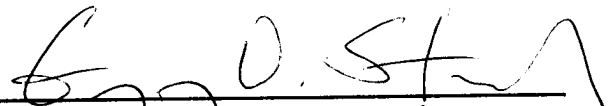
1 Judicial Form Retirement System, Kentucky Retirement Systems, or the Kentucky
2 Teachers' Retirement System who has served more than three consecutive four-year terms
3 on the effective date of this Act may complete their remaining term of office but shall not
4 be eligible to serve additional terms of office following their current term of office
5 without taking a four year absence from the board.

6 ➔Section 16. For purposes of determining if a trustee has exceeded the number of
7 years served as board chair, chairman, chairperson, vice-chair, or vice chairperson under
8 the provisions of subsection (3) of Section 6 of this Act, subsection (8) of Section 8 of
9 this Act, and subsection (1) of Section 11 of this Act, years served as board chair,
10 chairman, chairperson, vice-chair, or vice chairperson prior to the effective date of this
11 Act shall be included.

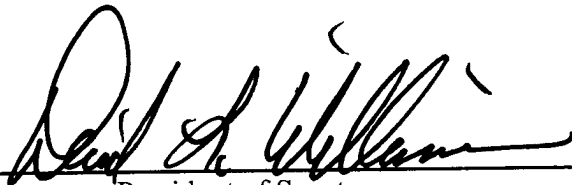
12 ➔Section 17. The initial five year period in which the Auditor is required to
13 complete an audit of the state-administered retirement systems as provided by paragraph
14 (2)(b) of Section 4 of this Act, paragraph (12)(b) of Section 8 of this Act, and paragraph
15 (2)(b) of Section 12 of this Act shall begin July 1, 2011.

16 ➔Section 18. The provisions of subsection (6) of Section 7 of this Act, subsection
17 (21) of Section 8 of this Act, and subsection (6) of Section 13 of this Act, regarding
18 unregulated placement agents, shall apply to contracts established or contracts renewed
19 on or after July 1, 2012.


20 ➔Section 19. Whereas it is imperative to the Commonwealth of Kentucky to
21 ensure the integrity and transparency of the state-administered retirement systems, an
22 emergency is declared to exist, and this Act takes effect upon its passage and approval by
23 the Governor or upon its otherwise becoming a law.



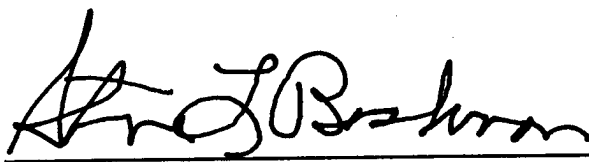
Speaker House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 4-11-12